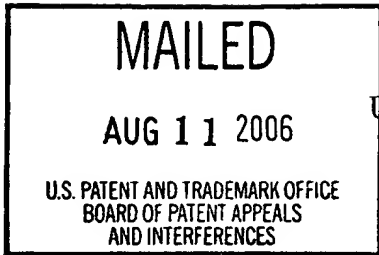


The opinion in support of the decision being entered today
was **not** written for publication and
is **not** binding precedent of the Board.



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TSUKASA YAMAMOTO, MASAYA OGAWA, EICHI YOSHIDA,
MASATAKA HOTTA, TORU MORITA and AKIKO OMORI

Appeal No. 2006-1427
Application No. 09/221,656
Technology Center 3600

HEARD July 25, 2006

Before OWENS, LEVY and NAPPI, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of claims 8 through 34, 40 through 53, 55 and 59 through 73, Claims 1 through 7 have been canceled and claims 35 through 39, 54 and 56 through 58 have been indicated, by the examiner as containing allowable subject matter. For the reasons stated *infra* we will not sustain the examiner's rejection of claims 8 through 34, 40 through 53, 55 and 59 through 73.

THE INVENTION

The invention relates to system, which receives data concerning the sales of a product from point of sales terminals and uses the data to determine production quantities of the product to be produced in the future. See pages 7 and 8 of appellants' specification. Claim 22 is representative of the invention and is reproduced below:

22. A production system comprising:
a point of sales subsystem including:
a plurality of point of sales terminals, each including a central processor and an input device for receiving and storing sales information concerning sales of a plurality of products; and
a flexible manufacturing subsystem including:
a main controller for receiving the information from the point of sales subsystem and for determining a production quantity of the plurality of products to be produced in the future based on the sales information received from the point of sales subsystem; and
a manufacturing controller for receiving the production quantity from the main controller and for controlling a plurality of production drive units for controlling manufacture of the production quantity of the plurality of products determined by the main controller.

THE REFERENCES

The references relied upon by the examiner are:

Rembert	US 5,101,352	Mar. 31, 1992
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Beasley	US 4,827,423	May 02, 1989
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Jim Brown, (Brown) "Software Link POS with Multiple Nets," Network World, October 17, 1988, pp 33 and 38.

THE REJECTION AT ISSUE

Claims 8 through 34, 40 through 53, 55 and 59 through 73 stand rejected under 35 U.S.C. § 103 as being unpatentable over Brown in view of Rembert and Beasley. The examiner's rejection is set forth on pages 3 through 9 of the answer. Throughout the opinion we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence obviousness relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellants' arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

With full consideration being given to the subject matter on appeal, the examiner's rejection and the arguments of appellants and the examiner, for the reasons stated *infra* we will not sustain the examiner's rejection of claims 8 through 34, 40 through 53, 55 and 59 through 73 under 35 U.S.C. § 103.

Appellants, argue on page 17 of the brief, that one skilled in the art would not use the manufacturing material requirements planning system of Rembert with the retail point of sale terminals of Brown. Appellants argue:

[T]here is no motivation for combining Brown and Rembert because they are directed to two divergent fields, retail and manufacturing respectively. Instead of basing the conclusion on actual teachings or suggestions of the prior art and the knowledge of one of ordinary skill in the art at the time of the invention was made, the Examiner has improperly used Applicants' own invention as a guide.

Further, on page 19 of the brief, appellants admit that it would be obvious to use inventory management with Brown. However, Appellants argue:

Retail users of the point of sales terminals in Brown typically replenish inventory by transmitting sales orders for ordering more inventory from their distributors. Manufacturers that use the material requirements

planning system of Rembert typically replenish their depleted inventory by ordering more raw materials from their suppliers. That is, the need to replenish inventory of finished goods at the retail system and the need to replenish inventory of raw materials at the manufacturing system would not motivate one of ordinary skill in the art to combine either the systems of Brown and Rembert with the plant management system of Beasley et al.

In response the examiner states, on pages 13 and 14, of the answer:

In this case, in the system of Brown, orders may be entered for items which are drop -shipped by vendors. Column 5, lines 53-56 of Rembert. These vendors have POS terminals linked to a controller for tracking inventory of items and the quantity of items to be ordered or needed to order. The system of Rembert controls the production of received work orders to be produced and or manufactured. See column 6, line 54 to column 7, line 5 of Rembert.

It would have been obvious to one of ordinary skill in the art to incorporate the inventory management system of Rembert into the system of Brown in order to detail out inventory data and requirements of a particular product. The combination of Brown and Rembert does not specifically detail a manufacturing controller. Beasley et al. is directed to a computer integrated system for controlling the production quantity of many different products. See column 2, lines 7-12 of Beasley et al. In the system of Beasley et al there includes a production unit which manufactures the production quantity of a plurality of different goods or products. See column 3, lines 52-65.

It would have been obvious to the skilled artisan to incorporate the teaching of Beasley et al into the combination of Brown and Rembert in order to manufacture a received quantity of products for accurate and timely producing and delivering of products to the plurality of point of sales terminals.

We disagree with the examiner's rationale. The examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). It is the burden of the examiner to establish why one having ordinary skill in the art would have been led to the claimed invention by the express teachings or suggestions found in the prior art, or by the implication contained in such teachings or suggestions. *In re Sernaker* 702 F.2d 989, 995, 217 USPQ 1, 6 (Fed.

Cir. 1983). “The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved.” *In re Huston* 308 F.3d 1267, 1278, 64 USPQ2d 1801, 1810 (Fed. Cir. 2002, citing *In re Kotzab* 217 F.3d 1365, 1370, 55 USPQ 1313, 1317 (Fed. Cir. 2000)). When considering the motivation in the obviousness analysis “the problem examined is not the specific problem solved by the invention but the general problem that confronted the inventor before the invention was made.” *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

In the instant case we do not find statements in the prior art which suggest the combination asserted by the examiner, nor do we find that the nature of the problems to be solved by the prior art suggest the combination asserted by the examiner.

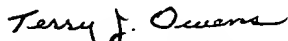
Claim 22 recites a plurality of point of sales terminals and a manufacturing subsystem, which receives the information from the point of sales systems and determines a production quantity of a plurality of products to be manufactured based upon the sales information from the point of sales terminals. Independent claims 8 and 28 contain similar limitations. Thus, the scope of these claims is that the point of sales terminals provide input to determine production quantity of products. Independent claims 33 and 52 recite receiving data identifying actual number of units of a good sold by a sample number of retail outlets and predicting future demand for the goods based upon the total number of units sold.

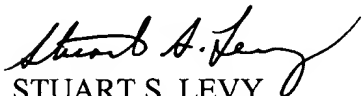
Brown teaches a system for networking a series of point of sales terminals, the point of sales terminals can then use a common resource for price look up files and credit card authorization. See page 33. Brown also suggests that the data collected over the

network can be used to track inventory. See page 35. Brown makes no mention of using the data in the manufacturing environment. Rembert teaches a material requirement planning system for a user who manufactures and sells products that have a wide variety of options. See abstract. We find no disclosure in Rembert relating to the receiving data from point of sales terminals. Beasley teaches a computer manufacturing system, which allows scheduling data and material specifications to be distributed amongst computer systems involved in the various steps of manufacturing. See abstract. As with Rembert, we find no disclosure in Beasley relating to receiving data from point of sales terminals. We do not find that the nature of the problem to be solved provides suggestion to modify the references as asserted by the examiner. Brown is concerned with linking a retailer's point of sales terminals. The thrust of Brown appears to be to increase the functionality of the point of sales terminal for a specific retailer (i.e. facilitating price look up, credit card authorization and tracking inventory), which we do not consider to suggest combining the retail system with a manufacturing system. Similarly, Rembert and Beasley are concerned with a system to improve scheduling and planning for a manufacturer and we do not find that the nature of the problems solved by Rembert and Beasley's systems suggests that data from a retail point of sales terminal should be used. Accordingly we do not find that the examiner has carried the burden of establishing a *prima facie* case of obviousness, and we will not sustain the examiner's rejection of claims 8 through 34, 40 through 53, 55 and 59 through 73 under 35 U.S.C. § 103 as being unpatentable over Brown in view of Rembert and Beasley.

In summary we will not sustain the examiner’s rejection of claims 8 through 34, 40 through 53, 55 and 59 through 73. The decision of the examiner is reversed.

REVERSED


TERRY J. OWENS
Administrative Patent Judge


STUART S. LEVY
Administrative Patent Judge


ROBERT E. NAPPI
Administrative Patent Judge

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